

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for April 28, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04024 - Airport Environs Noise District

PROPOSAL: Revise Lincoln Municipal Code (LMC) § 27.58, Airport Environs Noise District to modify ordinance to incorporate recommendations from the Lincoln Airport Federal Aviation Regulation (F.A.R.) Part 150 Noise Compatibility Study (referred to as the Noise Study). Specific text and map amendments to the Chapter are as follows:

Section 27.58.010, Scope of Regulations

Section 27.58.020, Definitions

Section 27.58.030, Use Regulations

Section 27.58.050, Permitted Uses in Relation to Noise Exposure Levels

Section 27.58.060, Conditional Permitted Residential Uses in Relation to Noise Exposure Levels

Section 27.58.080, Avigation and Noise Easements: Covenant, Notice and Acknowledgment

Section 27.58.90, Pre-existing uses

Section 27.58.100, Enforcement and Exemption

CONCLUSION: The proposal is in conformance with the Comprehensive Plan. These amendments strengthen the ordinance in maintaining compatibly-zoned land uses and minimizes aircraft noise impacts on existing and future development within the airport environs. These amendments modify the current ordinances and standards to reflect the Lincoln Airport F.A.R. Part 150 Noise Compatibility Study. These amendments only apply to the "Airport Environs Noise District" which is located within Lincoln's three mile jurisdiction.

<u>RECOMMENDATION:</u>	Approval of attached text and maps
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GENERAL INFORMATION:

HISTORY:

Feb 2004 The Planning Department holds a Public Information Meeting and briefs the City-County Common and Planning Commission.

Sept 2003 The Board of the Lincoln Airport Authority approves the Noise Study.

- July 2003** The Lincoln Airport Authority holds a final public hearing on the Noise Study, as required by Federal Aviation Regulations.
- June 2003** The Noise Study Planning Advisory Committee holds last meeting.
- June 2002** The Noise Study Planning Advisory Committee holds first meeting.
- May 2002** The Lincoln Airport Authority initiates a Noise Study to assess the existing and future aircraft noise impacts and noise contours for the airport environs.
- June 1982** The City of Lincoln adopted Lincoln Municipal Code, Chapter 27.58, Airport Environs Noise District.
- Feb 1980** The Airport Noise Control and Land Use Compatibility (ANCLUC) Study was completed.

RELATED APPLICATIONS:

- CPA#04002** A text and map amendment to adopt the "Lincoln Airport F.A.R. Part 150 Noise Compatibility Study" as an approved subarea plan of the Lincoln/ Lancaster County Comprehensive Plan and amend the land use plan for the area generally between S.W. 40th and S. Coddington Avenue, from W. South Street to a ½ mile north of W. "A" Street.

ANALYSIS:

1. The Airport Environs Noise District is an overlay zoning district that surrounds the Lincoln Airport. Within the District stricter regulations for noise-sensitive land uses, and disclosure to prospective property owners of aircraft overflight and noise impacts are enforced.
2. The 2003 Noise Study replaces the 1980 ANCLUC Study as the best available information that reflects current airport operations, and aircraft noise impacts to existing and future development. This amendment reflects the recommendations of the Noise Study, and allows revisions to be made to the Lincoln Municipal Code (LMC). The 2003 Noise Study is more accurate in representing aircraft noise levels than the 1980 ANCLUC Study, due to more sophisticated techniques and computer modeling regarding the mapping and measurement of aircraft noise contours.

3. A Planning Advisory Committee (PAC) participated with the Lincoln Airport Authority, and their consultant to complete the Noise Study. Representatives from the Arnold Heights Neighborhood Association, Capitol Beach Community Association, Coddington Mills Neighborhood Association, Highlands Neighborhood Association, West "A" Neighborhood Association, and West "O" Neighborhood Association, the City of Lincoln, various aircraft operators, the military and other groups met regularly to discuss issues and review findings and alternatives included the Noise Study.
4. A Noise Study is authorized under the Aviation Safety and Noise Abatement Act of 1979. The Noise Study was prepared according to the regulations contained within the Code of Federal Regulations. All models and methodologies contained within the Noise Study have been approved by the Federal Aviation Administration.
5. The 1980 ANCLUC Study provided land use guidance and the legal basis for the adoption of the Airport Environs Noise District Zoning Ordinance, and the current LMC that govern land uses within the District.
6. All uses permitted within the Airport Environs Noise District are required to grant an aviation and noise easement as a condition of development approval. This easement is a legal requirement that provides notice to prospective property owners of aircraft overflight and noise impacts, and that the property is located in the Airport Environs Noise District.
7. The land proposed to be added to the boundaries of the Airport Environs Noise District is located northwest, west and southwest of the airport (See Attached Map, Sec. 27.58.020). This land represents approximately 6,485 acres. The purpose for adding these properties to the District is to extend the disclosure requirement to prospective property owners of aircraft overflight and noise impacts. These properties are routinely impacted by touch-and-go military training activities, and shown as designated growth areas in the Comprehensive Plan.
8. The 2002 noise contour lines are generally narrower and shorter than the mapped noise contour lines identified in the current Lincoln Municipal Code. The Noise Study recommends incorporating the 60 Day Night Average Sound Level (DNL) noise contour. This new noise contour line is added to the 65 DNL, 70 DNL and 75 DNL noise contours already utilized in the current LMC to regulate and maintain compatibly-zoned land uses within the Airport Environs Noise District (See Attached Map, Sec. 27.58.010).
9. The current 65 DNL noise contour is very similar in shape to the 2002 60 DNL noise contour. During the preparation of the ANCLUC Study in 1980, the 60 DNL noise contour was recommended to be incorporated into the land use regulations for the

City. However, due to the large size of the 60 DNL noise contour at the time and amount of land contained within the contour, it was determined that land use regulation within the 60 DNL noise contour was not feasible. This change to the regulations would have a minimal effect on land uses as the area is currently regulated by the land use regulations.

10. The noise contour lines are used to regulate where specific land uses are permitted. Each noise contour line represents a 24-hour annual average weighted noise level -- measured in decibels. The DNL measurement is the standard FAA metric for determining the cumulative exposure of individuals to aircraft noise. The DNL is weighted by adding a 10-fold penalty to each noise event occurring between 10:00 p.m. and 7:00 a.m.
11. The 2002 noise contour lines indicate where the 24-hour annual average weighted noise level occurs, and is shown in 5-decibel increments between 60 DNL and 75 DNL. While the noise contours in the District are only measured up to 75 DNL, single noise events measuring above the 24-hour annual average noise levels were recorded during the monitoring phase of the Noise Study. For example, between the 65 DNL and 70 DNL noise contour line, single noise events above 70 DNL were recorded.
12. If approved, a new "Airport Environs Noise District Map" would be adopted in the LMC, adding additional land to the district boundary and revising the noise contour lines. This change amends Sections 27.58.010 and 27.58.020. The legal description of the proposed district boundary is shown as "Attachment A."
13. If approved, the proposed regulations and 2002 noise contour lines would permit changes in land use (i.e., from residential to non-residential), that under the mapped noise contour lines and zoning regulations in the current LMC are prohibited.
14. If approved, the proposed regulations would remove approximately 2,874 acres from noise-related restrictions.
15. If approved, the proposed regulations would add approximately 683 acres to noise-related restrictions.
16. If approved, the proposed regulations and 2002 noise contour lines would reduce the number of non-conforming uses. The proposed stricter standards do not create additional non-conforming residential or non-residential uses.
17. If approved, the proposed regulations would require the incorporation of acoustical features as a condition of approval for the following uses, which are not required in the current LMC. These uses include educational, religious, health and childcare facilities

above the 60 DNL noise contour line, where permitted; and offices, retail and service businesses, restaurants, eating and drinking establishments above the 60 DNL noise contour line.

18. If approved, the proposed regulations would require the incorporation of acoustical features as a condition of approval for **residential** uses above the 60 DNL noise contour line, where permitted. The current LMC requires this standard above the 65 DNL noise contour line.
19. If approved, the following proposed noise-related regulations for generalized land uses would be considered more restrictive than the current LMC:

Permitted Uses (Proposed Regulations)	Day Night Average Sound Level (DNL) not to exceed	
	Current LMC	Proposed (2002)
Residential	70	65
Park facilities	70	65
Cemeteries, mausoleums and undertaking establishments	75	70
Indoor sport and recreation facilities	75 or no restrictions	70
Outdoor sport and recreation facilities	75	65
Race Tracks for Motorized Vehicles	75	70

20. If approved, the following proposed noise-related regulations for generalized land uses would be considered less restrictive than the current LMC:

Permitted Uses (Proposed Regulations)	Day Night Average Sound Level (DNL) not to exceed	
	Current LMC	Proposed (2002)
Indoor entertainment facilities	65	70

21. If approved, the proposed regulations would add Figure 27.58.050, a matrix of generalized land uses and associated noise-related restrictions for each noise contour level. This figure would eliminate text in Section 27.58.050 (a) (1 through 4) in the current LMC.
22. If approved, the proposed regulations would eliminate the requirement for Planning Director review and approval of site plans; eliminate site plan submittal requirements; eliminate the twenty-day notification period; and eliminate the appeal procedures for site plans that are not approved, as shown in Section 27.58.060 (1 through 3 and 5) in the current LMC.
23. If approved, the proposed regulations would add Figure 27.58.080, a model avigation and noise easement, as referenced in Section 27.58.080 in the current LMC.
24. If approved, the proposed regulations would amend miscellaneous text in Chapter 27.58 to reflect the proposed regulations.
25. The proposed text and map amendments are in conformance with the Comprehensive Plan. The Comprehensive Plan provides support for implementing noise compatibility programs to reduce aircraft noise impacts and non-compatible land uses. The Comprehensive Plan promotes siting land uses in appropriate locations throughout the community. The Comprehensive Plan also promotes the use of the best available information to remain responsive to changing conditions.

26. The proposed text and map amendments only apply to the "Airport Environs Noise District" which is located within Lincoln's three mile jurisdiction.

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April 20, 2004

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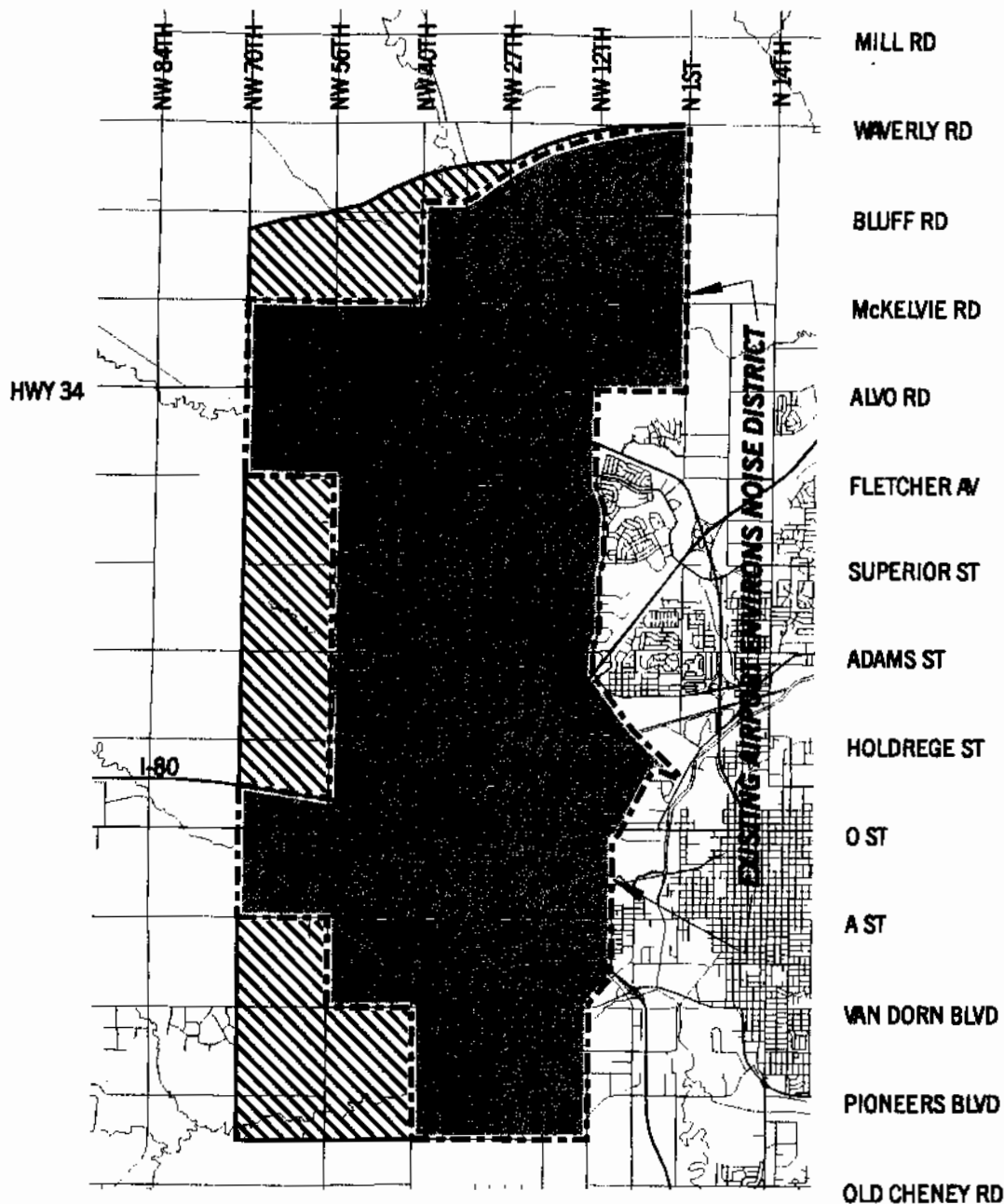
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Airport Environs Noise District - Legal Description for Section 27.58.020

Attachment 'A'

BEGINNING AT A POINT LOCATED ON SOUTHWEST 12th STREET AT THE SOUTHEAST CORNER OF THE NORTH HALF OF SECTION 9, TOWNSHIP 9 NORTH, RANGE 6 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, THENCE NORTHERLY ALONG SOUTHWEST 12th STREET, SAID LINE ALSO BEING THE EAST LINE OF SECTIONS 9 AND 4, TOWNSHIP 9 NORTH, RANGE 6 EAST, AND THE EAST LINE OF SECTION 33, TOWNSHIP 10 NORTH, RANGE 6 EAST A DISTANCE OF APPROXIMATELY 8,100 FEET TO THE CENTERLINE OF THE BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS; THENCE NORTHEASTERLY ALONG SAID RAILROAD TRACK CENTERLINE A DISTANCE OF APPROXIMATELY 2,000 FEET; THENCE NORTHERLY ALONG THE CENTERLINE OF SOUTHWEST 9th STREET AND ITS EXTENSION NORTH AND SOUTH THROUGH THE WEST HALF OF SECTIONS 34 AND 27, TOWNSHIP 10 NORTH, RANGE 6 EAST A DISTANCE OF APPROXIMATELY 8,200 FEET TO THE CENTERLINE OF A BURLINGTON NORTHERN SANTA FE RAILROAD TRACK. SAID TRACK BEING APPROXIMATELY 500 FEET SOUTH OF "O" STREET; THENCE NORTHEASTERLY ALONG THE FORMER BURLINGTON NORTHERN SANTA FE RAILROAD CENTERLINE THROUGH SECTIONS 27 AND 22, TOWNSHIP 10 NORTH, RANGE 6 EAST TO THE INTERSECTION OF SAID RAILROAD CENTERLINE AND THE EAST LINE OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 6 EAST; THENCE NORTHERLY ALONG THE EAST LINE OF SAID SECTION 22 A DISTANCE OF APPROXIMATELY 150 FEET TO THE CENTERLINE OF THE UNION PACIFIC RAILROAD TRACKS; THENCE NORTHWESTERLY ALONG SAID RAILROAD TRACK CENTERLINE THROUGH SECTIONS 22 AND 15, TOWNSHIP 10 NORTH, RANGE 6 EAST TO AN INTERSECTION WITH THE WEST LINE OF SECTION 15, TOWNSHIP 10 NORTH, RANGE 6 EAST; THENCE NORTH ALONG THE WEST LINE OF SECTION 15, TOWNSHIP 10 NORTH, RANGE 6 EAST TO AN INTERSECTION WITH THE CENTERLINE OF NORTHWEST 12th STREET; THENCE NORTHERLY ALONG THE CENTERLINE OF NORTHWEST 12th STREET TO ITS INTERSECTION WITH THE

CENTERLINE OF NORTHWEST 13th STREET IN SECTION 3 TOWNSHIP 10 NORTH, RANGE 6 EAST; THENCE CONTINUING NORTHERLY ALONG THE CENTERLINE OF SAID NORTHWEST 13th STREET TO ITS INTERSECTION WITH THE CENTERLINE OF WEST FLETCHER AVENUE; THENCE WESTERLY ALONG THE CENTERLINE OF SAID WEST FLETCHER AVENUE TO A POINT ON THE WEST LINE OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 6 EAST; THENCE NORTHERLY ALONG THE WEST LINE OF SAID SECTION 34 TO THE SOUTHEAST CORNER OF SECTION 28, TOWNSHIP 11 NORTH, RANGE 6 EAST; THENCE EAST ALONG THE SOUTH LINE OF SECTION 27, TOWNSHIP 11 NORTH, RANGE 6 EAST TO AN INTERSECTION WITH NORTH 1st STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SECTION 27, TOWNSHIP 11 NORTH, RANGE 6 EAST; THENCE NORTH ALONG NORTH 1st STREET AND ALONG THE EAST LINE OF SECTIONS 27, 22, AND 15, TOWNSHIP 11 NORTH, RANGE 6 EAST TO THE CITY OF LINCOLN'S THREE-MILE ZONING JURISDICTION LINE; THENCE WESTERLY ALONG SAID THREE-MILE ZONING JURISDICTION LINE TO ITS INTERSECTION WITH NORTHWEST 70th STREET. SAID POINT BEING ON THE WEST LINE OF SECTION 24, TOWNSHIP 11, RANGE 5 EAST; THENCE SOUTH ALONG THE WEST LINE OF SECTIONS 24, 25 AND 36, TOWNSHIP 11 NORTH, RANGE 5 EAST, AND ALONG THE WEST LINE OF SECTIONS 1, 12, 13, 24, 25 AND 36, TOWNSHIP 10 NORTH, RANGE 5 EAST, AND ALONG THE WEST LINE OF SECTIONS 1 AND 12, TOWNSHIP 9 NORTH, RANGE 5 EAST TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SECTION 12, TOWNSHIP 9 NORTH, RANGE 5 EAST; THENCE EAST ALONG THE SOUTH LINE OF THE NORTH HALF OF SECTION 12, TOWNSHIP 9 NORTH, RANGE 5 EAST, AND ALONG THE SOUTH LINE OF SECTIONS 7, 8 AND 9, TOWNSHIP 9 NORTH, RANGE 6 EAST, SAID LINE ALSO BEING ALONG WEST CLAIRE AVENUE AND ITS EXTENSION EAST AND WEST, TO THE POINT OF BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH HALF OF SECTION 9, TOWNSHIP 9 NORTH, RANGE 6 EAST.



Change of Zone 04024 - Areas to be Added to Airport Environs Noise District

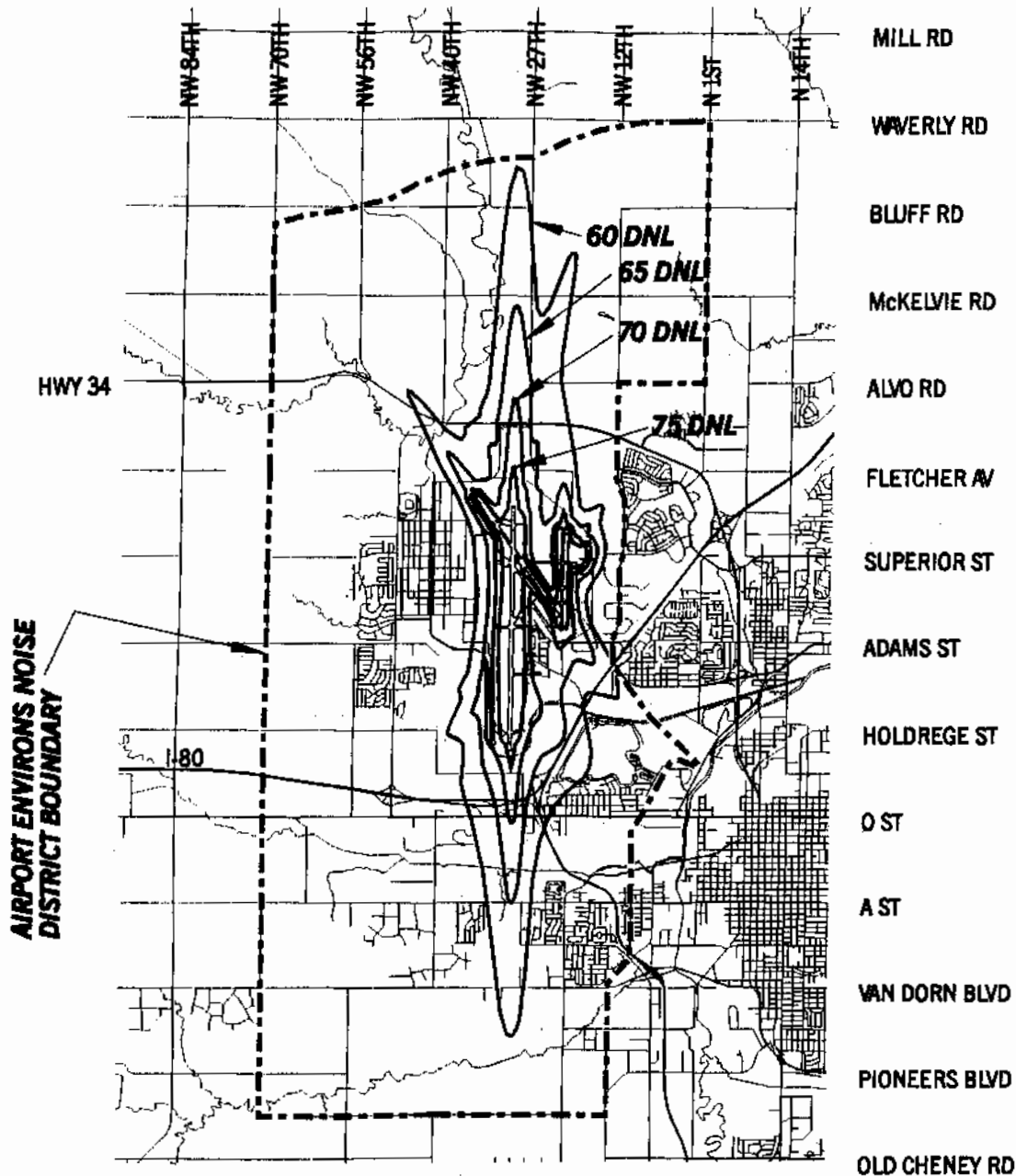
Proposed Amendment to Sec. 27.58.020

- Existing Airport Environs Noise District
- Area to be Added to Existing Airport Environs Noise District



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Change of Zone 04024

Airport Environs Noise District Map

Proposed Amendment to Sec. 27.58.010



AIRPORT ENVIRONS NOISE DISTRICT**Sections:**

27.58.010	Scope of Regulations.
27.58.020	Definitions.
27.58.030	Use Regulations.
27.58.050	Permitted Uses in Relation to Noise Exposure Levels.
27.58.060	Conditional Permitted Residential Uses in Relation to Noise Exposure Levels.
27.58.080	Aviation and Noise Easements; Covenant, Notice and Acknowledgment.
27.58.090	Pre-existing Uses.
27.58.100	Enforcement and Exemption.

27.58.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the Airport Environs Noise District. The regulations shall apply to the area in the vicinity of the Lincoln municipal airport defined as Airport Environs Noise District † in Section 27.58.020. References to specific ~~Edn~~ DNL lines shall mean those ~~Edms~~ DNLs as shown on the "Airport Environs Noise District Map." (Ord. 17752 §1; October 30, 2000; prior Ord. 17699 §1; July 24, 2000; Ord. 14431 §3; July 14, 1986; Ord. 13414 §1; June 14, 1982).

27.58.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

Airborne noise shall mean noise radiated initially into and transmitted through air.

Airport Environs Noise District † shall mean an area established on the Airport Environs Noise District Map dated ~~June 1, 2000~~ (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

~~Beginning at a point located on Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East, heading north approximately 8,100 feet along Southwest 12th Street, the eastern borders of Sections 9, Township 9 North, Range 6 East, and 4, Township 9 North, Range 6 East, and Section 33, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad; heading then northeast approximately 2,000 feet along the railroad tracks; then heading north approximately 8,200 feet through the western half of Section 34, Township 10 North, Range 6 East, along Southwest 9th Street and the western half of Section 27,~~

Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad, 500 feet south of West "O" Street; following the railroad tracks northeast to the eastern border of Section 22, Township 10 North, Range 6 East; following the tracks of the Union Pacific Railroad northwesterly to Northwest 12th Street; heading then north along Northwest 12th Street to the southeast corner of Section 28, Township 11 North, Range 6 East; heading then east approximately one mile to North 1st Street; heading then north along North 1st Street to the city's three-mile zoning jurisdiction line; heading then west along the city's three-mile zoning jurisdiction line to Northwest 40th Street; heading then south to the southwest corner of Section 20, Township 11 North, Range 6 East; heading then west on McKelvie Road to the northwest corner of Section 25, Township 11 North, Range 5 East; heading then south on Northwest 70th Street to Fletcher Avenue; heading then east along Fletcher Avenue to Northwest 56th Street; heading then south on Northwest 56th Street approximately 19,400 feet to Interstate 80; heading then west along Interstate 80 to the western border of Section 24, Township 10 North, Range 5 East; heading then south along the western borders of Sections 24, Township 10 North, Range 5 East and 25, Township 10 North, Range 5 East to West "A" Street; heading then east along West "A" Street to the southwest corner of Section 30, Township 10 North, Range 6 East; heading then south along the western border of Section 31, Township 10 North, Range 6 East to Van Dorn Street; heading then east on Van Dorn Street to Southwest 40th Street; heading then south on Southwest 40th Street to West Claire Avenue; and then heading east along West Claire Avenue to its termination at Coddington Avenue and then further east approximately 2,700 feet to a point located at Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East.

Day-night average sound level (~~L_{dn}~~ DNL) shall mean the sum of noise emission equivalent of A-weighted sound level during a 24-hour day typifying annual average conditions after addition of 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

Exterior door shall mean all exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of 50 degrees F.;

Habitable space shall mean space or room in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, solariums, sunrooms and similar areas are not considered habitable space.

1 **Noise-sensitive manufacturing and noise-sensitive communication facilities** shall
2 include, but not be limited to, the manufacture and assembly of micro-electronics, technical and
3 scientific instruments, photographic and optical goods, and other manufacturing sensitive to speech
4 interference or vibration, and radio and television broadcasting studios. (Ord. 17752 §2; October 30,
5 2000: prior Ord. 17699 §2; July 24, 2000: Ord. 14431 §4; July 14, 1986: Ord.13414 §3; June 14,
6 1982).

7
8 **27.58.030 Use Regulations.**

9 Any use permitted in the underlying zoning district in which the proposed use is located shall
10 be allowed in the Airport Environs Noise District † except as prohibited within the provisions of this
11 chapter and, provided that additional requirements set forth in this chapter are met. References to
12 allowable uses as provided within this chapter are conditioned upon the said use being in compliance
13 with allowable uses within the underlying zoning district. (Ord. 17752 §3; October 30, 2000: prior
14 Ord. 17699 §3; July 24, 2000: Ord. 13414 §4; June 14, 1982).

15
16 **27.58.040 Prohibited Uses; Airport Environs Noise District †.**

17 (Repealed by Ord. 17719 §1; August 21, 2000: prior Ord. 17699 §4; July 24, 2000: Ord.
18 13414 §5; June 14, 1982).

19
20 **27.58.050 Permitted Uses in Relation to Noise Exposure Levels.**

21 (a) ~~★ The use of a building or premises for the following purposes may any use permitted~~
22 under Section 27.58.030 shall be allowed in the Airport Environs Noise District † if it lies within
23 the specified noise exposure levels shown below set out in Figure 27.58.050 at the end of this
24 chapter, conditioned upon compliance with Section 27.58.080 of this chapter:

25 ~~(1) Mobile home courts, schools, libraries, churches, health care facilities, audit-~~
26 ~~oriums, concert halls, housing for the elderly, and music shells, not to exceed Ldn 65 line:~~

27 ~~(2) Hotels and motels, playgrounds, neighborhood parks, noise-sensitive manufac-~~
28 ~~turing, and noise-sensitive communication facilities, not to exceed Ldn 70 line:~~

29 ~~(3) Cemeteries, mausoleums and undertaking establishments, riding, water sports,~~
30 ~~tennis courts, skating rinks, bowling alleys and other recreational facilities, theaters, spectator sports,~~
31 ~~and veterinary facilities and kennels, not to exceed Ldn 75 line:~~

32 ~~(4) Office buildings, personal business, governmental services, communication~~
33 ~~facilities, extensive natural recreational areas, financial institutions, retail trade, restaurants, bars,~~
34 ~~amusements, sports arenas, golf courses and related support facilities, wholesale, manufacturing,~~
35 ~~construction services, repair services, livestock farming, animal breeding, utilities, agriculture,~~
36 ~~mining, fishing, forestry, warehouses, storage facilities, historical preservation, wind energy~~
37 ~~conversion systems, transportation facilities, no noise-related restrictions:~~

38 (b) Where property is undeveloped, only such portion of it as is actually within the Ldn
39 DNL lines shall be considered at or within that ~~Ldn~~ DNL line. However, at such time as said prop-
40 erty shall be subdivided or platted, any platted buildable lots intersected by an ~~Ldn~~ DNL line shall
41 be deemed to be wholly within the highest ~~Ldn~~ DNL line. (Ord. 17752 §4; October 30, 2000: prior
42 Ord. 17719 §2; August 21, 2000: Ord. 17699 §5; July 24, 2000: Ord. 13414 §6; June 14, 1982).

27.58.060 Conditional Permitted Residential Uses in Relation to Noise Exposure Levels.

(a) The use of A a building or premises for a use designated Y [1] in Figure 27.58.050 shown at the end of this chapter is permitted may be used for residential purposes in the Airport Environs Noise District if it lies within the specified noise exposure levels + in areas between Ldn 65 line and Ldn 70 line, in conformance with the requirements of Section 27.58.080 of this title and the conditions prescribed herein:

(1) ~~Prior to applying for a building permit, an applicant shall prepare and submit to the Planning Director for his review and approval a site plan for the proposed building or buildings which shall be designed to minimize the impact of noise. This may include, but need not be limited to:~~

(i) ~~Placing as much distance as possible between the noise source and noise-sensitive activities;~~

(ii) ~~Placing noise-compatible activities, such as parking lots and open space, between the noise source and the sensitive activities;~~

(iii) ~~Using buildings as noise barriers;~~

(iv) ~~Orienting buildings so that nonhabitable space, such as utility rooms, laundry rooms and garages, are located between the noise source and the habitable space;~~

(v) ~~Utilizing the site's natural shape and contours or constructing noise barriers between noise sources and noise-sensitive areas. Such noise barriers may include but need not be limited to berms made of sloping mounds of earth, walls and fences constructed of a variety of material, dense plantings of trees and shrubs, e.g., 100-foot depth, and any of these combinations.~~

(2) ~~The site plan submitted to the Planning Director shall be accompanied by the following information:~~

(i) ~~An accurately drawn plan showing location of existing and proposed structures on the property, open space, parking areas, location of existing trees, proposed landscape plans, sidewalks, floor plan identifying bedrooms, kitchens, living rooms, garages, etc., lot lines and building setback lines;~~

(ii) ~~Contour lines at intervals not to exceed five feet based on NAVD 1988, if the site has not been platted;~~

(iii) ~~Location of site with relation to specific Ldn lines;~~

(iv) ~~Grading plan, if any;~~

(v) ~~Discussion of additional steps to minimize the noise impact, if any;~~

(vi) ~~Date prepared, scale, and north point;~~

(vii) ~~Name, address and telephone number of applicant;~~

(viii) ~~Other relevant information, if any, relating to noise attenuation.~~

(3) ~~Within twenty days from the receipt of a site plan with the required information, the Planning Director shall notify the applicant and the Director of Building and Safety whether or not the site plan has been approved or disapproved. If the site plan is disapproved, the Planning Director shall specify the reasons for such disapproval. A site plan shall be approved if it reflects a reasonably effective method of minimizing the impact of the noise to which the proposed building or buildings would be subjected.~~

(4) ~~If the site plan is approved by the Planning Director, a A building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that~~

incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

- (i) All exterior doors shall be either:
 - A. solid-core or metal-clad construction of at least 1 3/4 inches thick, or
 - B. separately equipped with wood or metal storm door., or
 - C. multiple-glazed.
- (ii) ~~Storm or m~~ Multiple-glazed windows shall be provided for all habitable space.
- (iii) Through-the-wall/door mailboxes, ~~window or dome~~ venting skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.
- (iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used. Commercial cooking areas are exempt from these conditions.
- (v) ~~Workmanship on doors and windows must be such that they are as close-fitting as possible or weather-stripping seals shall be incorporated on all edges to eliminate gaps.~~

~~(5) In the event that the Planning Director disapproves the site plan, the applicant may, within ten days after notification of such disapproval, appeal the decision of the Planning Director to the City Council. The City Council shall, by resolution, affirm, reverse, or modify the decision of the Planning Director. (Ord. 17857 §6, June 4, 2001; prior Ord. 17752 §5, October 30, 2000; Ord. 17719 §3, August 21, 2000; Ord. 17699 §6, July 24, 2000; Ord. 14837 §2(part), February 29, 1988; Ord. 13414 §7, June 14, 1982).~~

27.58.070 Prohibited Uses, Airport Environs Noise District 2.

~~(Repealed by Ord. 17752 §6; October 30, 2000; prior Ord. 17719 §4; August 21, 2000; Ord. 17699 §7; July 24, 2000; Ord. 16811 §1; June 19, 1995; Ord. 13414 §8; June 14, 1982).~~

27.58.080 Aviation and Noise Easements; Covenant, Notice and Acknowledgment.

(a) All uses allowed within Airport Environs Noise District †, except as provided in Section 27.58.090 shall be conditioned upon the grant by the property owner of a covenant aviation and noise easement, notice, and acknowledgment that the property is located in Airport Environs Noise District †, providing for the disclosure of the airport noise and overflight impact to future purchasers, as a condition of subdivision, community unit plan, special permit, use permit, or building permit. Covenant Aviation and noise easement, notice, and acknowledgment that property is located in Airport Environs Noise District † to be submitted pursuant to the terms of this chapter shall conform to the provisions contained in the model covenant aviation and noise easement, a copy of which is ~~shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the City Clerk of the City of Lincoln shown in Figure 27.58.080 at the end of this~~

chapter. (Ord. 17752 §7; October 30, 2000: prior Ord. 17699 §8; July 24, 2000: Ord. 13414 §9; June 14, 1982).

27.58.090 Pre-existing Uses.

Any existing use which was lawfully established at the time of the effective date of this chapter may be continued although such use does not conform to the provisions hereof. However, the requirements set forth in this chapter shall be applicable to the portion of the use subject to enlargement, extension, conversion, reconstruction, or structural alteration, and not be retroactive to the entire existing structure. Nothing shall prohibit the reconstruction of a building legally in use at the time of the adoption of this chapter. A request for enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Chapter 27.63. No person applying for a special permit to enlarge, extend, convert, reconstruct, or alter a structure lawfully in existence at the time of the enactment of this chapter shall be required to submit an avigation and noise easement or ~~covenant~~, notice and acknowledgment as a condition for approval thereof. (Ord. 13414 §10; June 14, 1982).

27.58.100 Enforcement and Exemption.

(a) Prior to the issuance of a building permit or other certificate, the Director of Building and Safety shall receive the executed ~~covenant~~ avigation and noise easement, notice, and acknowledgment for property in Airport Environs Noise District † which shall then be forwarded to the Airport Authority or shall have received evidence that the executed ~~covenant~~ avigation and noise easement was previously furnished to the Airport Authority. All ~~covenants~~ avigation and noise easements shall be forwarded to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter. (Ord. 17752 §9; October 30, 2000: prior Ord. 17699 § 9; July 24, 2000: Ord. 13414 §11; June 14, 1982).

Figure 27.58.050
Generalized Use Matrix for Airport Environs Noise District

<u>Uses Permitted Within Each Noise Contour Level *</u>	<u>Airport Noise Environs District</u>			
	<u>Below 60 DNL</u>	<u>60 to 65 DNL</u>	<u>65 to 70 DNL</u>	<u>70 to 75 DNL</u>
<u>All residential uses (incl. RV parks and campgrounds)</u>	Y	Y [1]	N	N
<u>Educational and religious facilities</u>	Y	Y [1]	N	N
<u>Health and childcare facilities</u>	Y	Y [1]	N	N
<u>Outdoor sport, recreation, entertainment (except for race tracks for motorized vehicles, open space and natural areas, golf courses and trails) and parks facilities.</u>	Y	Y	N	N
<u>Indoor sport, recreation, and entertainment facilities</u>	Y	Y	Y	N
<u>Noise-sensitive manufacturing and communication facilities</u>	Y	Y	Y	N
<u>Cemeteries, mausoleums and undertaking establishments</u>	Y	Y	Y	N
<u>Hotels/ motels</u>	Y	Y	Y	N
<u>Race Tracks for Motorized Vehicles</u>	Y	Y	Y	N
<u>Offices, retail and service businesses, restaurants, eating and drinking establishments</u>	Y	Y [1]	Y [1]	Y [1]
<u>Open space and natural areas</u>	Y	Y	Y	Y
<u>Golf courses and trails</u>	Y	Y	Y	Y
<u>Service stations and repair services</u>	Y	Y	Y	Y
<u>Assembly, processing, manufacturing, refining, mining, storage, transportation, utility, communication and distribution facilities</u>	Y	Y	Y	Y
<u>Farming, livestock, breeding and feeding; plant nurseries</u>	Y	Y	Y	Y
<u>Parking lots</u>	Y	Y	Y	Y
<u>Signs</u>	Y	Y	Y	Y
<u>Notes:</u> <u>Y - Permitted</u> <u>N - Not permitted</u> <u>1. Development is required to incorporate acoustical features as a condition of building permit issuance, as described in Section 27.58.060 of this chapter.</u> <u>* All uses permitted within the Airport Environs Noise District shall be conditioned upon the grant by the property owner of an aviation and noise easement agreement that the property is located in the Airport Environs Noise District, as described in Section 27.58.080 of this chapter.</u>				

Figure 27.58.080
Model Avigation and Noise Easement

INDENTURE made this _____ day of _____, 20____, between
hereinafter called "Grantor", and Airport Authority of the City of Lincoln, a public body corporate and politic,
hereinafter called "Airport Authority":

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in Lancaster County,
State of Nebraska, more particularly described as:

See attached Exhibit "A",

said tract of land being hereinafter referred to as "Grantor's Land"; and

WHEREAS, Airport Authority, as an agency of the City of Lincoln, Nebraska, is the owner and operator
of a public airport known as Lincoln Municipal Airport situated on land adjacent or in close proximity to the
above-described property; and

WHEREAS, Grantor has agreed in consideration of _____ (\$ _____) and other valuable
consideration, receipt of which is hereby acknowledged, to grant Airport Authority and City of Lincoln,
Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over
Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys
to the City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and
consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys
to the City of Lincoln, Nebraska, for the use of Airport Authority, its successors and assigns, a perpetual easement
and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over
and above Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to
make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military
aircraft to, from and upon Lincoln Municipal Airport, regardless of the means of propulsion.

And Grantor, for itself, its heirs, successors, and assigns, for the said consideration, do hereby grant and
convey to Airport Authority, its agents, servants and employees, a continuing right and easement to remove, mark
light, or to take any action necessary to prevent the erection or growth of any structure, tree or other object into
the airspace above Grantor's Land which constitutes an obstruction to air navigation to, from, and passage over
Grantor's Land in any present or future clear zone approach area for said purposes.

The Grantor, for itself, its heirs, successors, and assigns, does hereby waive all right to and interest in
any claim or cause of action against the Airport Authority or the City of Lincoln, arising out of or from any legally
permissible noise, vibration, aviations, pollution, light or noise generated from, above or on airport property, or
sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the
means of propulsion, to, from and upon Lincoln Municipal Airport, which may result in damage to land or to any
person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action
for any damage or injury to person or property resulting from any aircraft, or object therefrom, falling on,
propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further agrees, that if Grantor or its heirs, successors or assigns,
should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in
every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all conditions
contained within this Avigation and Noise Easement, and further as a condition of such transaction, Grantor shall
require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property
herein above described as Grantor's Land.

In the event any condition or provision herein contained is held to be invalid by any court of competent
jurisdiction, the invalidity of any such condition or provision shall in no way affect any other condition or
provision herein contained.

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Grantor's land.

TO HAVE AND TO HOLD said Avigation and Noise Easement hereby granted unto the City of Lincoln for the use of the Airport Authority, its successors, and assigns, as appurtenant to the said Lincoln Municipal Airport and every part thereof.

IN WITNESS WHEREOF, the undersigned has caused its signature to be affixed this _____ day of _____, 20____.

By: _____

STATE OF NEBRASKA)

_____) ss.

COUNTY OF LANCASTER)

On this _____ day of _____, 20____, before me, a duly appointed and qualified notary public, personally appeared _____, to me personally known to be the same and identical person who signed the above and foregoing instrument and he did acknowledge the execution thereof to be his voluntary act and deed and that of _____.

WITNESS my hand and seal on the date last aforementioned.

Notary Public

MEMORANDUM

TO: Planning Commission

FROM: Duncan Ross, Planning

SUBJECT: Change of Zone No. 04024
Airport Environs Noise District Modifications

DATE: June 17, 2004

COPIES: Rick Peo, City Law
Jon Large, Lincoln Airport Authority
Marvin Krout, Ray Hill, Greg Czaplewski, File, Planning

Change of Zone #04024 is proposed to modify the existing Airport Environs Noise District in the zoning ordinance, updating and making the regulations consistent with the recently completed Lincoln Airport Part 150 Noise Study. Since the initial public hearing for this Change of Zone on April 28, 2004, the Lincoln Airport has now received acceptance of the Part 150 Study from the regional Federal Aviation Administration Office.

Over the past months, the draft ordinance was further evaluated and some changes are reflected in the attached revised ordinance. Also, the City of Lincoln and Lincoln Airport Authority have agreed to enter into an Interlocal Agreement that further clarifies the roles and responsibilities regarding the administering of the District's regulations. This Interlocal Agreement will be forwarded to the City Council for review. The attached revised draft Airport Environs Noise District ordinance dated June 4, 2004, identifies the new changes in highlighted shading. There are three substantive changes.

The primary modification is a revision to Section 27.58.080, Avigation and Noise Easements. The previous draft referenced a requirement for both an avigation and noise easement, and also a covenant, notice and acknowledgment as a condition of approval for applicable developments within the District. The new draft reflects a requirement to require only an avigation and noise easement as a condition of approval for applicable developments with the District. Also, the "Model Avigation and Noise Easement" is included within the draft ordinance, and the language in current Section 27.58.080 oversimplifies the conditions of the easement. It seemed appropriate to delete the language referring to the conditions of the easement as indicated.

Memorandum on Change of Zone #04024

Page 2

The second revision to the ordinance is the removal of a paragraph in the model easement that conveys to the Airport Authority permission to remove, mark, light, or take any action necessary to prevent aircraft obstructions above the property owner's land.

The third revision includes a new legal description for the District. Previously the revised legal description was identified as an attachment in the staff report. Including the new legal description in the ordinance further clarifies it as a component of the revised ordinance.

None of these amendments changes the intent or purpose of the Change of Zone. For your June 26 meeting, the Planning Department and Airport Authority requests that you take action on this Change of Zone and related Comprehensive Plan Amendment #04002. If you have questions, ahead of the June 26 meeting please call me at 441-7603.

F:\FILES\PLANNING\PC\CZ\04000\CZ04024 memo revisions 061704.dlr.wpd

AIRPORT ENVIRONS NOISE DISTRICT**Sections:**

- 27.58.010** **Scope of Regulations.**
27.58.020 **Definitions.**
27.58.030 **Use Regulations.**
27.58.050 **Permitted Uses in Relation to Noise Exposure Levels.**
27.58.060 **Conditional Permitted Residential Uses in Relation to Noise Exposure Levels.**
27.58.080 **Avigation and Noise Easements; ~~Covenant, Notice and Acknowledgment.~~**
27.58.090 **Pre-existing Uses.**
27.58.100 **Enforcement and Exemption.**

27.58.010 **Scope of Regulations.**

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the Airport Environs Noise District. The regulations shall apply to the area in the vicinity of the Lincoln municipal airport defined as Airport Environs Noise District ~~±~~ in Section 27.58.020. References to specific ~~Edn~~ DNL lines shall mean those ~~Edns~~ DNLs as shown on the "Airport Environs Noise District Map." (Ord. 17752 §1; October 30, 2000; prior Ord. 17699 §1; July 24, 2000; Ord. 14431 §3; July 14, 1986; Ord. 13414 §1; June 14, 1982).

27.58.020 **Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined:

Airborne noise shall mean noise radiated initially into and transmitted through air.

Airport Environs Noise District ~~±~~ shall mean an area established on the Airport Environs Noise District Map ~~dated June 1, 2000~~ (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

~~Beginning at a point located on Southwest 12th Street at the southeast corner of the northern half of Section 9, Township 9 North, Range 6 East, heading north approximately 8,100 feet along Southwest 12th Street, the eastern borders of Sections 9, Township 9 North, Range 6 East, and 4, Township 9 North, Range 6 East, and Section 33, Township 10 North, Range 6 East to the tracks of the Burlington Northern Railroad; heading then northeast approximately 2,000 feet along the railroad tracks; then heading north approximately 8,200 feet through the western half of~~

1 Section 34, Township 10 North, Range 6 East, along Southwest 9th
2 Street and the western half of Section 27, Township 10 North, Range 6
3 East to the tracks of the Burlington Northern Railroad, 500 feet south of
4 West "O" Street; following the railroad tracks northeast to the eastern
5 border of Section 22, Township 10 North, Range 6 East; following the
6 tracks of the Union Pacific Railroad northwesterly to Northwest 12th
7 Street; heading then north along Northwest 12th Street to the southeast
8 corner of Section 28, Township 11 North, Range 6 East; heading then
9 east approximately one mile to North 1st Street; heading then north along
10 North 1st Street to the city's three-mile zoning jurisdiction line; heading
11 then west along the city's three-mile zoning jurisdiction line to Northwest
12 40th Street; heading then south to the southwest corner of Section 20,
13 Township 11 North, Range 6 East; heading then west on McKelvie Road
14 to the northwest corner of Section 25, Township 11 North, Range 5 East;
15 heading then south on Northwest 70th Street to Fletcher Avenue; heading
16 then east along Fletcher Avenue to Northwest 56th Street; heading then
17 south on Northwest 56th Street approximately 19,400 feet to Interstate
18 80; heading then west along Interstate 80 to the western border of Section
19 24, Township 10 North, Range 5 East; heading then south along the
20 western borders of Sections 24, Township 10 North, Range 5 East and
21 25, Township 10 North, Range 5 East to West "A" Street; heading then
22 east along West "A" Street to the southwest corner of Section 30, Town-
23 ship 10 North, Range 6 East; heading then south along the western border
24 of Section 31, Township 10 North, Range 6 East to Van Dorn Street;
25 heading then east on Van Dorn Street to Southwest 40th Street; heading
26 then south on Southwest 40th Street to West Claire Avenue; and then
27 heading east along West Claire Avenue to its termination at Coddington
28 Avenue and then further east approximately 2,700 feet to a point located
29 at Southwest 12th Street at the southeast corner of the northern half of
30 Section 9, Township 9 North, Range 6 East.

31
32 Beginning at a point located on Southwest 12th street at the southeast
33 corner of the north half of Section 9, Township 9 North, Range 6 East of
34 the 6th p.m., Lancaster County, Nebraska, thence northerly along
35 Southwest 12th street, said line also being the east line of Sections 9 and
36 4, Township 9 North, Range 6 East, and the east line of Section 33,
37 Township 10 North, Range 6 East a distance of approximately 8,100 feet
38 to the centerline of the Burlington Northern Santa Fe railroad tracks;
39 thence northeasterly along said railroad track centerline a distance of
40 approximately 2,000 feet; thence northerly along the centerline of
41 Southwest 9th Street and its extension north and south through the west

1 half of Sections 34 and 27, Township 10 North, Range 6 East a distance
2 of approximately 8,200 feet to the centerline of a Burlington Northern
3 Santa Fe railroad track. Said track being approximately 500 feet south of
4 "0" Street; thence northeasterly along the former Burlington Northern
5 Santa Fe railroad centerline through Sections 27 and 22, Township 10
6 North, Range 6 East to the intersection of said railroad centerline and the
7 east line of Section 22, Township 10 North, Range 6 East; thence
8 northerly along the east line of said Section 22 a distance of approximately
9 150 feet to the centerline of the Union Pacific railroad tracks; thence
10 northwesterly along said railroad track centerline through Sections 22 and
11 15, Township 10 North, Range 6 East to an intersection with the west line
12 of Section 15, Township 10 North, Range 6 East; thence north along the
13 west line of Section 15, Township 10 North, Range 6 East to an
14 intersection with the centerline of Northwest 12th Street; thence northerly
15 along the centerline of Northwest 12th Street to its intersection with the
16 centerline of Northwest 13th Street in Section 3 Township 10 North,
17 Range 6 East; thence continuing northerly along the centerline of said
18 Northwest 13th Street to its intersection with the centerline of West
19 Fletcher Avenue; thence westerly along the centerline of said West
20 Fletcher Avenue to a point on the west line of Section 34, Township
21 11 North, Range 6 East; thence northerly along the west line of said
22 Section 34 to the southeast corner of Section 28, Township 11 North,
23 Range 6 East; thence east along the south line of Section 27, Township 11
24 North, Range 6 East to an intersection with North 1st Street, said point
25 also being the southeast corner of Section 27, Township 11 North, Range
26 6 East; thence north along North 1st Street and along the east line of
27 Sections 27, 22, and 15, Township 11 North, Range 6 East to the City of
28 Lincoln's three-mile zoning jurisdiction line; thence westerly along said
29 three-mile zoning jurisdiction line to its intersection with Northwest 70th
30 Street. Said point being on the west line of Section 24, Township 11,
31 Range 5 East; thence south along the west line of Sections 24, 25 and 36,
32 Township 11 North, Range 5 East, and along the west line of Sections 1,
33 12, 13, 24, 25 and 36, Township 10 North, Range 5 East, and along the
34 west line of Sections 1 and 12, Township 9 North, Range 5 East to the
35 southwest corner of the north half of Section 12, Township 9 North,
36 Range 5 East; thence east along the south line of the north half of Section
37 12, Township 9 North, Range 5 East, and along the south line of Sections
38 7, 8 and 9, Township 9 North, Range 6 East, said line also being along
39 West Claire Avenue and its extension east and west, to the point of
40 beginning at the southeast corner of the north half of Section 9, Township
41 9 North, Range 6 East.

1
2 **Day-night average sound level (~~Ldn~~ DNL)** shall mean the sum of noise emission equivalent
3 of A-weighted sound level during a 24-hour day typifying annual average conditions after addition of 10
4 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

5
6 **Exterior door** shall mean all exit doors of a building that are located between conditioned and
7 unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is
8 provided with a positive heat supply to maintain a minimum temperature of 50 degrees F.;

9 **Habitable space** shall mean space or room in a structure for living, sleeping, eating, or cooking.
10 Bathrooms, toilet compartments, closets, halls, storage or utility space, solariums,
11 sunrooms and similar areas are not considered habitable space.

12
13 **Noise-sensitive manufacturing and noise-sensitive communication facilities** shall
14 include, but not be limited to, the manufacture and assembly of micro-electronics, technical and scientific
15 instruments, photographic and optical goods, and other manufacturing sensitive to speech interference or
16 vibration, and radio and television broadcasting studios. (Ord. 17752 §2; October 30, 2000: prior Ord.
17 17699 §2; July 24, 2000: Ord. 14431 §4; July 14, 1986: Ord. 13414 §3; June 14, 1982).

18
19 **27.58.030 Use Regulations.**

20 Any use permitted in the underlying zoning district in which the proposed use is located shall be
21 allowed in the Airport Environs Noise District ~~±~~ except as prohibited within the provisions of this chapter
22 and, provided that additional requirements set forth in this chapter are met. References to allowable uses
23 as provided within this chapter are conditioned upon the said use being in compliance with allowable uses
24 within the underlying zoning district. (Ord. 17752 §3; October 30, 2000: prior Ord. 17699 §3; July 24,
25 2000: Ord. 13414 §4; June 14, 1982).

26
27 **27.58.040 Prohibited Uses; Airport Environs Noise District ~~1~~.**

28 (Repealed by Ord. 17719 §1; August 21, 2000: prior Ord. 17699 §4; July 24, 2000: Ord. 13414
29 §5; June 14, 1982).

30
31 **27.58.050 Permitted Uses in Relation to Noise Exposure Levels.**

32 (a) ~~A~~ The use of a building or premises for the following purposes may any use permitted under
33 Section 27.58.030 shall be allowed in the Airport Environs Noise District ~~±~~ if it lies within the specified
34 noise exposure levels shown below set out in Figure 27.58.050 at the end of this chapter, conditioned upon
35 compliance with Section 27.58.080 of this chapter:

36 (1) ~~Mobile home courts, schools, libraries, churches, health care facilities, auditoriums,~~
37 ~~concert halls, housing for the elderly, and music shells, not to exceed Ldn 65 line.~~

38 (2) ~~Hotels and motels, playgrounds, neighborhood parks, noise-sensitive manufac-~~
39 ~~turing, and noise-sensitive communication facilities, not to exceed Ldn 70 line.~~

1 (3) Cemeteries, mausoleums and undertaking establishments, riding, water sports,
2 tennis courts, skating rinks, bowling alleys and other recreational facilities, theaters, spectator sports, and
3 veterinary facilities and kennels, not to exceed Ldn 75 line:

4 (4) Office buildings, personal business, governmental services, communication facilities,
5 extensive natural recreational areas, financial institutions, retail trade, restaurants, bars, amusements, sports
6 arenas, golf courses and related support facilities, wholesale, manufacturing, construction services, repair
7 services, livestock farming, animal breeding, utilities, agriculture, mining, fishing, forestry, warehouses,
8 storage facilities, historical preservation, wind energy conversion systems, transportation facilities, no noise-
9 related restrictions:

10 (b) Where property is undeveloped, only such portion of it as is actually within the ~~Ldn~~ DNL
11 lines shall be considered at or within that ~~Ldn~~ DNL line. However, at such time as said property shall be
12 subdivided or platted, any platted buildable lots intersected by an ~~Ldn~~ DNL line shall be deemed to be
13 wholly within the highest ~~Ldn~~ DNL line. (Ord. 17752 §4; October 30, 2000: prior Ord. 17719 §2; August
14 21, 2000: Ord. 17699 §5; July 24, 2000: Ord. 13414 §6; June 14, 1982).

15
16 **27.58.060 Conditional Permitted Residential Uses in Relation to Noise Exposure Levels.**

17 (a) ~~The use of A a building or premises for a use designated Y [1] in Figure 27.58.050 shown~~
18 ~~at the end of this chapter is permitted may be used for residential purposes in the Airport Environs Noise~~
19 ~~District 1 if it lies within the specified noise exposure levels in areas between Ldn 65 line and Ldn 70 line,~~
20 in conformance with the requirements of Section 27.58.080 of this title and the conditions prescribed herein:

21 (1) — Prior to applying for a building permit, an applicant shall prepare and submit to the
22 Planning Director for his review and approval a site plan for the proposed building or buildings which shall
23 be designed to minimize the impact of noise. This may include, but need not be limited to:

24 (i) Placing as much distance as possible between the noise source and noise-
25 sensitive activities;

26 (ii) Placing noise-compatible activities, such as parking lots and open space,
27 between the noise source and the sensitive activities;

28 (iii) Using buildings as noise barriers;

29 (iv) Orienting buildings so that nonhabitable space, such as utility rooms,
30 laundry rooms and garages, are located between the noise source and the habitable space;

31 (v) Utilizing the site's natural shape and contours or constructing noise barriers
32 between noise sources and noise-sensitive areas. Such noise barriers may include but need not be limited
33 to berms made of sloping mounds of earth, walls and fences constructed of a variety of material, dense
34 plantings of trees and shrubs, e.g., 100-foot depth, and any of these combinations:

35 (2) The site plan submitted to the Planning Director shall be accompanied by the
36 following information:

37 (i) An accurately drawn plan showing location of existing and proposed struc-
38 tures on the property, open space, parking areas, location of existing trees, proposed landscape plans,
39 sidewalks, floor plan identifying bedrooms, kitchens, living rooms, garages, etc., lot lines and building
40 setback lines;

(ii) Contour lines at intervals not to exceed five feet based on NAVD 1988, if the site has not been platted;

(iii) Location of site with relation to specific Ldn lines;

(iv) Grading plan, if any;

(v) Discussion of additional steps to minimize the noise impact, if any;

(vi) Date prepared, scale, and north point;

(vii) Name, address and telephone number of applicant;

(viii) Other relevant information, if any, relating to noise attenuation.

(3) Within twenty days from the receipt of a site plan with the required information, the Planning Director shall notify the applicant and the Director of Building and Safety whether or not the site plan has been approved or disapproved. If the site plan is disapproved, the Planning Director shall specify the reasons for such disapproval. A site plan shall be approved if it reflects a reasonably effective method of minimizing the impact of the noise to which the proposed building or buildings would be subjected.

(4) If the site plan is approved by the Planning Director, a building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

(i) All exterior doors shall be either:

A. solid-core or metal-clad construction of at least 1 3/4 inches thick, or

B. separately equipped with wood or metal storm door, or

C. multiple-glazed.

(ii) ~~Storm or m~~ Multiple-glazed windows shall be provided for all habitable space.

(iii) Through-the-wall/door mailboxes, ~~window or dome~~ venting skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.

(iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used. Commercial cooking areas are exempt from these conditions.

~~(v) Workmanship on doors and windows must be such that they are as close-fitting as possible or weather-stripping seals shall be incorporated on all edges to eliminate gaps.~~

(5) ~~In the event that the Planning Director disapproves the site plan, the applicant may, within ten days after notification of such disapproval, appeal the decision of the Planning Director to the City Council. The City Council shall, by resolution, affirm, reverse, or modify the decision of the Planning Director. (Ord. 17857 §6; June 4, 2001; prior Ord. 17752 §5; October 30, 2000; Ord. 17719 §3;~~

1 August 21, 2000: Ord. 17699 §6; July 24, 2000: Ord. 14837 §2(part); February 29, 1988: Ord. 13414
2 §7; June 14, 1982).

3
4 **27.58.070 Prohibited Uses, Airport Environs Noise District 2.**

5 (Repealed by Ord. 17752 §6; October 30, 2000: prior Ord. 17719 §4; August 21, 2000: Ord.
6 17699 §7; July 24, 2000: Ord. 16811 §1; June 19, 1995: Ord. 13414 §8; June 14, 1982).

7
8 **27.58.080 Avigation and Noise Easements; ~~Covenant, Notice and Acknowledgment.~~**

9 (a) All uses allowed within the Airport Environs Noise District ~~±~~, except as provided in Section
10 27.58.090 shall be conditioned upon the grant by the property owner of a an covenant, notice, and
11 acknowledgment avigation and noise easement. that the property is located in Airport Environs Noise
12 District 1, providing for the disclosure of the airport noise and overflight impact to future purchasers, as
13 Such easement shall be a condition of a subdivision, community unit plan, special permit, use permit, or
14 building permit. Covenant, notice, and acknowledgment The avigation and noise easement that property
15 is located in Airport Environs Noise District 1 is to be submitted pursuant to the terms of this chapter and
16 shall conform to the provisions contained in the model covenant avigation and noise easement, a copy of
17 which is ~~shall remain on file in the office of the Executive Director of the Lincoln Airport Authority and the~~
18 ~~City Clerk of the City of Lincoln shown in Figure 27.58.080 at the end of this chapter.~~ (Ord. 17752 §7;
19 October 30, 2000: prior Ord. 17699 §8; July 24, 2000: Ord. 13414 §9; June 14, 1982).

20
21 **27.58.090 Pre-existing Uses.**

22 Any existing use which was lawfully established at the time of the effective date of this chapter may
23 be continued although such use does not conform to the provisions hereof. However, the requirements set
24 forth in this chapter shall be applicable to the portion of the use subject to enlargement, extension, conver-
25 sion, reconstruction, or structural alteration, and not be retroactive to the entire existing structure. Nothing
26 shall prohibit the reconstruction of a building legally in use at the time of the adoption of this chapter. A
27 request for enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use
28 which does not conform to the provisions of this chapter shall be processed through special permit
29 procedures set forth in Chapter 27.63. No person applying for a special permit to enlarge, extend, convert,
30 reconstruct, or alter a structure lawfully in existence at the time of the enactment of this chapter shall be
31 required to submit an avigation and noise easement ~~or covenant, notice and acknowledgment~~ as a condition
32 for approval thereof. (Ord. 13414 §10; June 14, 1982).

33
34 **27.58.100 Enforcement and Exemption.**

35 (a) Prior to the issuance of a building permit or other certificate, the Director of Building and
36 Safety shall receive the executed ~~covenant, notice, and acknowledgment~~ avigation and noise easement for
37 property in the Airport Environs Noise District ~~±~~ which shall then be forwarded to the Airport Authority
38 or shall have received evidence that the executed ~~covenant~~ avigation and noise easement was previously
39 furnished to the Airport Authority. All ~~covenants~~ avigation and noise easements shall be forwarded to the
40 Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the requirements of this chapter. (Ord. 17752 §9; October 30, 2000; prior Ord. 17699 § 9; July 24, 2000: Ord. 13414 §11; June 14, 1982).

Figure 27.58.050
Generalized Use Matrix for Airport Environs Noise District

<u>Uses Permitted Within Each Noise Contour Level *</u>	<u>Airport Noise Environs District</u>			
	<u>Below 60 DNL</u>	<u>60 to 65 DNL</u>	<u>65 to 70 DNL</u>	<u>70 to 75 DNL</u>
<u>All residential uses (incl. RV parks and campgrounds)</u>	<u>Y</u>	<u>Y [1]</u>	<u>N</u>	<u>N</u>
<u>Educational and religious facilities</u>	<u>Y</u>	<u>Y [1]</u>	<u>N</u>	<u>N</u>
<u>Health and childcare facilities</u>	<u>Y</u>	<u>Y [1]</u>	<u>N</u>	<u>N</u>
<u>Outdoor sport, recreation, entertainment (except for race tracks for motorized vehicles, open space and natural areas, golf courses and trails) and parks facilities.</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>N</u>
<u>Indoor sport, recreation, and entertainment facilities</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>
<u>Noise-sensitive manufacturing and communication facilities</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>
<u>Cemeteries, mausoleums and undertaking establishments</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>
<u>Hotels/ motels</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>
<u>Race Tracks for Motorized Vehicles</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>
<u>Offices, retail and service businesses, restaurants, eating and drinking establishments</u>	<u>Y</u>	<u>Y [1]</u>	<u>Y [1]</u>	<u>Y [1]</u>
<u>Open space and natural areas</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Golf courses and trails</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Service stations and repair services</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Assembly, processing, manufacturing, refining, mining, storage, transportation, utility, communication and distribution facilities</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Farming, livestock, breeding and feeding; plant nurseries</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Parking lots</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Signs</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

Notes:

Y - Permitted

N - Not permitted

1. Development is required to incorporate acoustical features as a condition of building permit issuance, as described in Section 27.58.060 of this chapter.

* All uses permitted within the Airport Environs Noise District shall be conditioned upon the grant by the property owner of an aviation and noise easement agreement that the property is located in the Airport Environs Noise District, as described in Section 27.58.080 of this chapter.

Figure 27.58.080
Model Avigation and Noise Easement

INDENTURE made this _____ day of _____, 20____, between _____, hereinafter called "Grantor", and Airport Authority of the City of Lincoln, a public body corporate and politic, hereinafter called "Airport Authority":

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in Lancaster County, State of Nebraska, more particularly described as:

See attached Exhibit "A".

said tract of land being hereinafter referred to as "Grantor's Land"; and

WHEREAS, Airport Authority, as an agency of the City of Lincoln, Nebraska, is the owner and operator of a public airport known as Lincoln Municipal Airport situated on land adjacent or in close proximity to the above-described property; and

WHEREAS, Grantor has agreed in consideration of _____ (\$ _____) and other valuable consideration, receipt of which is hereby acknowledged, to grant Airport Authority and City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, for the use of Airport Authority, its successors and assigns, a perpetual easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over and above Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military aircraft to, from and upon Lincoln Municipal Airport, regardless of the means of propulsion.

And Grantor, for itself, its heirs, successors, and assigns, for the said consideration, do hereby grant and convey to Airport Authority, its agents, servants and employees, a continuing right and easement to remove, mark light, or to take any action necessary to prevent the erection or growth of any structure, tree or other object into the airspace above Grantor's Land which constitutes an obstruction to air navigation to, from, and passage over Grantor's Land in any present or future clear zone approach area for said purposes.

The Grantor, for itself, its heirs, successors, and assigns, does hereby waive all right to and interest in any claim or cause of action against the Airport Authority or the City of Lincoln, arising out of or from any legally permissible noise, vibration, avigations, pollution, light or noise generated from, above or on airport property, or sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the means of propulsion, to, from and upon Lincoln Municipal Airport, which may result in damage to land or to any person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action for any damage or injury to person or property resulting from any aircraft, or object therefrom, falling on, propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further agrees, that if Grantor or its heirs, successors or assigns, should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all conditions contained within this Avigation and Noise Easement, and further as a condition of such transaction, Grantor shall require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property herein above described as Grantor's Land.

In the event any condition or provision herein contained is held to be invalid by any court of competent

